

1 MITCHELL D. GLINER, ESQ.  
2 Nevada Bar #003419  
3 3017 West Charleston Blvd., #95  
4 Las Vegas, NV 89102  
(702) 870-8700  
(702) 870-0034 Fax  
Attorney for Plaintiff

5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA

7 ANGELA HERNANDEZ, )

8 Plaintiff, )

9 vs. )

No.

10 EQUABLE ASCENT FINANCIAL, LLC, )  
11 a foreign Limited Liability )  
Company, and )  
12 APEX FINANCIAL MANAGEMENT, LLC )  
a foreign Limited Liability )  
Company, )

13 Defendants. )

JURY DEMANDED

LAW OFFICES  
MITCHELL D. GLINER  
3017 W. Charleston Blvd.  
Suite 95  
Las Vegas, Nevada 89102  
(702) 870-8700

16 COMPLAINT

17 JURISDICTION

18 1. The jurisdiction of this Court attains pursuant to the  
19 FDCPA, 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332,  
20 and the doctrine of supplemental jurisdiction. Venue lies in the  
21 Southern Division of the Judicial District of Nevada as Plaintiff's  
22 claims arose from acts of the Defendants perpetrated therein.

24 PRELIMINARY STATEMENT

25 2. This action is instituted in accordance with and to  
26 remedy Defendants' violations of the Federal Fair Debt Collection  
27 Practices Act, 15 U.S.C § 1692 et seq. (hereinafter "FDCPA"), and  
28 of related state law obligations brought as supplemental claims  
hereto.

1           3.     In 2010 Defendants initiated a campaign of abusive,  
2 unfair, unreasonable, and unlawful debt collection activity  
3 directed against Plaintiff in Pahrump, Nevada.

4           4.     As a result of these and other violations of law,  
5 Plaintiff seeks hereby to recover actual and statutory damages  
6 together with reasonable attorney's fees and costs.

7  
8                                 PARTIES

9           5.     Plaintiff, Angela Hernandez, is a natural person who  
10 resides in Pahrump, Nevada, and is a "consumer" as defined by 15  
11 U.S.C. Section 1692a(3) and allegedly owes a "debt" as defined by  
12 15 U.S.C. Section 1692a(5).

13           6.     The Defendant, Equable Ascent Financial, LLC, (Equable)  
14 is a foreign Limited Liability Company, the principal purpose of  
15 whose business is the collection of debts operating a debt  
16 collection agency from its principal place of business in Buffalo  
17 Grove, IL and regularly collections or attempts to collect debts  
18 owed or due or asserted to be owed or due another, and is a "debt  
19 collector" as defined by 15. U.S.C. Section 1692a(6).

20           7.     The Defendant APEX Financial Management, LLC (APEX) is a  
21 foreign Limited-Liability Company, the principal purpose of whose  
22 business is the collection of debts, operating a debt collection  
23 agency from its principal place of business is Buffalo Grove, IL,  
24 and regularly collects or attempts to collect debts owed or due or  
25 asserted to be owed or due another, and is a "debt collector" as  
26 defined by 15 U.S.C. Section 1692a(6).

LAW OFFICES  
MITCHELL D. GLINER  
3017 W. Charleston Blvd.  
Suite 95  
Las Vegas, Nevada 89102  
(702) 870-8700

FACTUAL ALLEGATIONS

8. Plaintiff repeats, realleges and asserts all factual allegations contained in the preliminary statement to this Complaint and reasserts them as incorporated in full herein.

9. Plaintiff's husband lost his job and has not worked for a very long time.

10. Plaintiff's home has been foreclosed.

11. Plaintiff is on the cusp of bankruptcy.

12. During August, 2010, Equable assigned its account to Global Credit & Collection Corp. (Global).

13. On September 22, 2010, Plaintiff wrote Global advising of her refusal to pay (Exhibit 1).

14. Plaintiff's written refusal to pay required Defendants to cease and desist all collection communications in accordance with FDCPA § 1692c(c):

(c) Ceasing communication - If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt.

15. A copy of Exhibit 1 was also mailed to Equable and received on September 27, 2010 (Exhibit 2).

16. Notwithstanding, Equable again dunned Plaintiff through APEX on November 9, 2010, in violation of FDCPA §§ 1692c(c) and 1692d (Exhibit 3).

LAW OFFICES  
MITCHELL D. GLINER  
3017 W. Charleston Blvd.  
Suite 95  
Las Vegas, Nevada 89102  
(702) 870-8700

1 17. The Defendants share the same address.

2 18. The foregoing acts and omissions of Defendants were  
3 undertaken by them willfully, maliciously, and intentionally,  
4 knowingly, and/or in gross or reckless disregard of the rights of  
5 Plaintiff.

6 19. Indeed, the foregoing acts and omissions of Defendants  
7 were undertaken by them indiscriminately and persistently, as part  
8 of their regular and routine debt collection efforts, and without  
9 regard to or consideration of the identity or rights of Plaintiff.

10 20. As a proximate result of the foregoing acts and omissions  
11 of Defendants, Plaintiff has suffered actual damages and injury,  
12 including, but not limited to, stress, humiliation, mental anguish  
13 and suffering, and emotional distress, for which Plaintiff should  
14 be compensated in an amount to be proven at trial.

15 21. As a result of the foregoing acts and omissions of  
16 Defendants, and in order to punish Defendants for their outrageous  
17 and malicious conduct, as well as to deter them from committing  
18 similar acts in the future as part of their debt collection  
19 efforts, Plaintiff is entitled to recover punitive damages in an  
20 amount to be proven at trial.

21  
22 CAUSES OF ACTION

23 COUNT I

24 22. The foregoing acts and omissions of Defendants  
25 constitute violations of the FDCPA, including, but not limited to,  
26 Sections 1692c, 1692d, 1692e 1692f and 1692g.

27 23. Plaintiff is entitled to recover statutory damages,  
28 actual damages, reasonable attorney's fees, and costs.

LAW OFFICES  
MITCHELL D. GLINER  
3017 W. Charleston Blvd.  
Suite 95  
Las Vegas, Nevada 89102  
(702) 870-8700

COUNT II

24. The foregoing acts and omissions of Defendants constitute unreasonable debt collection practices in violation of the doctrine of Invasion of Privacy. *Kuhn v. Account Control Technology, Inc.*, 865 F. Supp. 1443, 1448-49 (D. Nev. 1994); *Pittman v. J. J. Mac Intyre Co. of Nevada, Inc.*, 969 F. Supp. 609, 613-14 (D. of Nev. 1997).

25. Plaintiff is entitled to recover actual damages as well as punitive damages in an amount to be proven at trial.

JURY DEMANDED

Plaintiff hereby demands trial by a jury on all issues so triable.

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

1. Award actual damages.
2. Award punitive damages.
3. Award statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k.
4. Award reasonable attorney fees.
5. Award costs.
6. Grant such other and further relief as it deems just and proper.

Respectfully submitted,

MITCHELL D. GLINER, ESQ.  
Nevada Bar #003419  
3017 West Charleston Boulevard  
Suite 95  
Las Vegas, NV 89102  
Attorney for Plaintiff

September 22, 2010

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Global Credit & Collection Corp.

~~P. O. Box 101928, Dept. 2417~~

Birmingham, Al 35210

Dear Sir:

I attach your August 27, 2010, correspondence on behalf of Equable Ascent Financial.

Regrettably, I am on the precipice of bankruptcy and thusly refuse to pay you.

Thank you in advance for your anticipated courtesy.

Sincerely

Angela Hernandez nee Atherley

Enclosure

cc: Equable Ascent Financial, LLC, via Certified Mail  
1120 W. Lake Cook Rd., Ste. B, Buffalo Grove, IL 60089

EXHIBIT /



Sep 07 10 10:33a

Microsoft

Case 2:10-cv-02074-GMN -RJJ Document 1 Filed 11/29/10 Page 7 of 9

7757271651

p.1

PO Box 101928, Dept. 2417  
Birmingham, AL 35210

017939



**GLOBAL**

CREDIT & COLLECTION CORP

Global Credit & Collection Corp.  
300 International Drive  
PMB #10015  
Williamsville, NY 14221  
1-866-350-7727



August 27, 2010



25506\*\*\*AUTO\*\*MIXED AADC 350  
Angela L Atherley  
2580 Carnation Way  
Pahrump NV 89048-5358

69

Client:	Equable Ascent Financial, LLC
Original Creditor:	Washington Mutual Card
Account Number:	4559545001242362
Global ID:	24675294
Amount Due:	\$6378.02

Dear Angela L Atherley,

Your account has been placed with Global Credit & Collection Corp., a collection agency acting on behalf of Equable Ascent Financial, LLC, a debt purchasing company. This is an attempt to collect a debt. Any information will be used for that purpose.

Due to your failure to pay our client, your delinquent account has been referred to Global Credit & Collection Corp to collect the balance. Our client wants to settle this debt in a reasonable, professional manner. As soon as we bring your account to a conclusion all collection activity will be stopped.

The balance due on your Washington Mutual Card account is \$6378.02. Our client has authorized us to offer you a settlement of 80% of your total balance.

We will accept \$5102.42 as final settlement on your account. Please contact our office at your earliest convenience to take advantage of the opportunity.

For your convenience payments may be processed electronically over the telephone at no addition cost.

Should you have any questions concerning your payment or your account, please telephone our office. Please make sure that your payment clearly identifies your name and that of your creditor so that payment can be properly applied to your account.

Mr. Duarte  
1-866-350-7727

SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

Detach and Return Bottom Portion with Payment

Pay by Credit Card

Fill in all of the information below.

<input type="checkbox"/> VISA	<input type="checkbox"/> M/C	<input type="checkbox"/> DISC
Card #	Security Code	Expiration Date
Billing Address		
Signature	Amount Authorized \$	

Client:	Equable Ascent Financial, LLC
Original Creditor:	Washington Mutual Card
Account Number:	4559545001242362
Global ID:	24675294
Amount Due:	\$6378.02

Pay by Auto Pay Payment

Fill in all of the information below, and we will arrange this payment free of charge.

Name of Bank	<input type="checkbox"/> Checking	<input type="checkbox"/> Savings
Routing Number	Account Number	Payment Date
Name of Account Holder		
Signature	Amount Authorized \$	



Global Credit & Collection Corp.  
300 International Drive  
PMB #10015  
Williamsville, NY 14221

UNITED STATES  
POSTAL SERVICE®[Home](#) | [Help](#)[Track & Confirm](#)

## Track & Confirm

### Search Results

Label/Receipt Number: 7005 2570 0000 3475 9594

Service(s): Certified Mail™

Status: Delivered

Your item was delivered at 4:01 pm on September 27, 2010 in BUFFALO GROVE, IL 60089.

[Track & Confirm](#)

Enter Label/Receipt Number.

#### Detailed Results:

- Delivered, September 27, 2010, 4:01 pm, BUFFALO GROVE, IL 60089
- Arrival at Unit, September 27, 2010, 8:28 am, BUFFALO GROVE, IL 60089

[Site Map](#)[Customer Service](#)[Forms](#)[Gov't Services](#)[Careers](#)[Privacy Policy](#)[Terms of Use](#)[Business Customer Gateway](#)

Copyright© 2010 USPS. All Rights Reserved.

[No FEAR Act EEO Data](#)[FOIA](#)[USPS and Independent Contractors](#)[USPS and Independent Contractors](#)

# EXHIBIT 2



1120 W Lake Cook Rd Ste A  
Buffalo Grove IL 60089-1970

ADDRESS SERVICE REQUESTED

**Apex Financial Management, LLC**

1120 W Lake Cook Road Suite A • Buffalo Grove IL 60089  
Toll Free: (866) 912 7390  
Hours of Operation: Mon.-Thurs. 8:00 am-8:00pm (CST)  
Fri. 8:00 am-4:00 pm (CST)  
Sat. 8:00 am-12:00 pm (CST)

November 9, 2010 X

2073815-11100 429724984

Angela Atherley  
2580 Carnation Way  
Pahrump NV 89048-5358

**APEX FINANCIAL MANAGEMENT, LLC**

1120 W Lake Cook Road Suite A  
Buffalo Grove IL 60089-1970

Original Creditor: CHASE BANK USA, N.A (WAMU)  
Current Creditor: Equable Ascent Financial, Llc.  
Previous Account #: 4559545001242362  
Apex Account #: 2073815  
Balance: \$6,378.02

**Past Due Balance**

Detach Upper Portion and Return with Payment

Original Creditor: CHASE BANK USA, N.A (WAMU)  
Current Creditor: Equable Ascent Financial, Llc.  
Previous Account #: 4559545001242362  
Apex Account #: 2073815  
Balance: \$6,378.02

This is to advise you that Equable Ascent Financial, LLC has purchased the above referenced debt you previously owed to CHASE BANK USA, N.A (WAMU).

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment of verification. If you request of this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

If you do not dispute this debt or any portion thereof, you are requested to remit the above stated balance in the enclosed envelope. If you cannot remit the balance, contact us to discuss a repayment plan.

Please direct all payments and all correspondence to: Apex Financial Management, 1120 W Lake Cook Road Suite A, Buffalo Grove, IL 60089-1970, toll free: (866) 912 7390.

Sincerely,

Apex Financial Management, LLC

This is an attempt to collect a debt and any information obtained will be used for that purpose. In addition this communication is from a debt collector.

To make a payment on line, log on to [www.apexfm.com](http://www.apexfm.com) and click on make payment.

If you wish to pay by VISA, MasterCard or Discover, fill in the information below and return the entire letter to us.



Account Number	Payment Amount	Expiration Date
<div style="display: flex; justify-content: space-between;"> <span>3 Digit Security Code ( see reverse side of credit card )</span> </div>	\$	/

Card Holder Name  
RGLHILC0211100

Signature of Card Holder

Date

**WESTERN UNION** | **QUICK COLLECT**  
The fastest way to send a payment

**MoneyGram**  
ExpressPayment.

**EXHIBIT 3**